

SUPPORT FOR THE AMENDMENTS

Claims 1-6 and 15 have been canceled.

Claim 7 has been amended.

Claims 34-36 have been added.

The amendment of Claim 7 and new Claims 34-36 are supported by originally filed Claims 1-4 and 7. Additional support for the amendment of Claim 7 and new Claims 34-36 can be found in the originally filed specification at pages 14-52 and 56-93, for example at page 18, line 26 to page 19, line 10, page 25, line 16 to page 27, line 1, and pages 36-41.

No new matter has been added by the present amendment.

REMARKS

Claims 7-14 and 16-36 are pending in the present application

The rejections of: (a) Claims 1, 2, 4-10, and 12-15 under 35 U.S.C. §102(b) over Xu et al - U.S. 6,280,655 (hereinafter referred to as Xu '655); and (b) Claims 7-15 under 35 U.S.C. §102(a) and/or 35 U.S.C. §103(a) over Xu et al – U.S. 6,668,375 (hereinafter referred to as Xu '375), are believed to be obviated by amendment.

Claims 1, 2, 4-6, and 15 have been canceled. Therefore, Applicants make no statement with respect to this ground of rejection over these claims and do not acquiesce to the same. Accordingly, it is requested that cancellation of these claims herein be without prejudice toward their presentation in an ensuing continuation application.

Xu '655 discloses a stress-luminescent material capable of efficiently emitting luminescence when stressed by receiving a mechanical stimulation. Xu '655 further discloses an aluminate compound which is a composite oxide consisting of aluminum oxide and an alkaline earth metal oxide having a non-stoichiometric composition with deficiency relative to the alkaline earth metal ions. In the disclosure of Xu '655 the luminescent material is blended with an organic material such as a synthetic resin or embedded in a plastic article to form a composite body (col. 4, lines 44-46).

However, at no point does Xu '655 disclose or suggest using a surfactant that can disperse the luminescent material (i.e., the crystalline superfine particles) in the organic material (i.e., “another material”) as claimed in pending Claim 7 and 34 (and the claims dependent therefrom). As clearly set forth in MPEP §2131, the standard for determining anticipation requires that the reference “must teach every element of the claim.” Therefore, in view of the amendment of Claim 7 and the presentation of new Claim 34, Xu '655 cannot

anticipate the claimed invention since this reference fails to disclose each and every element of the claimed invention.

Xu '375 is cited as disclosing the use of luminescent particles in an optical transparent material to produce a system for measuring stress. By that as it may, Xu '375 only discloses the use of a defect-controlled type SAO-E stress luminescent material having a composition of $\text{Sr}_{0.985}\text{Al}_2\text{O}_4:\text{Eu}_{0.01}$ (see Example 1 in column 7) and the various stress luminescent materials appearing at column 10, lines 25-31. However, at no point does Xu '375 disclose or suggest using a surfactant that can disperse the luminescent material (i.e., the crystalline superfine particles) in the organic material (i.e., "another material") as claimed in pending Claim 7 and 34. Accordingly, Xu '375 is plagued with the very same problem as Xu '655 and cannot be relied upon to compensate for the aforementioned deficiency in the disclosure of Xu '655. Therefore, the combined disclosures of Xu '375 and Xu '655 fail to anticipate and/or render obvious the presently claimed invention.

Withdrawal of this ground of rejection is requested.

The rejection of Claims 1-10 and 13-15 under 35 U.S.C. §102(b) over Li et al - U.S. 6,783,699 (hereinafter referred to as Li '699) is believed to be obviated by amendment.

Claims 1-6 and 15 have been canceled. Therefore, Applicants make no statement with respect to this ground of rejection over these claims and do not acquiesce to the same. Accordingly, it is requested that cancellation of these claims herein be without prejudice toward their presentation in an ensuing continuation application.

Li '699 discloses europium-containing fluorescent nanoparticles comprised of an aluminum oxide framework having a europium activator, a magnesium, calcium, strontium, or barium energy reservoir, and at least one co-activator selected from the group consisting of scandium, yttrium, and certain lanthanide elements. In addition, Li '699 discloses coated

nanoparticles with silane that allow for attachment of the nanoparticle to a desired biological or chemical target molecule.

However, Li '699 do not disclose or suggest a complex as presently claimed. In particular, Li et al fail to disclose a complex material such as the present invention where the crystalline superfine particles are dispersed in the "another material" (e.g., resin, glass) by virtue of their coating with a surfactant. Accordingly, much as the case of Xu '655, Li '699 cannot anticipate the claimed invention since this reference fails to disclose each and every element of the claimed invention (i.e., the coated crystalline superfine particles).

Applicants request withdrawal of this ground of rejection.

The rejection of Claims 1, 2, and 7-15 under 35 U.S.C. §112, first paragraph (enablement), is believed to be obviated by amendment.

Claims 1, 2, and 15 have been canceled. Applicants submit that the present amendment to Claim 7 sufficiently identifies the composition of the crystalline superfine particles so as to ensure that the scope of the claims is commensurate in scope with the breadth of the disclosure. As such, Applicants submit that this ground of rejection is no longer tenable and should be withdrawn.

Withdrawal of this ground of rejection is requested.

The objection to Claims 3-6 and the rejection of Claim 3 under 35 U.S.C. §112, first paragraph (enablement), are obviated by cancellation of Claims 1-6. Acknowledgment to this effect is requested.

With respect to the Examiner's treatment of the provisional election as an election without traverse, Applicants submit that there is no support in U.S. patent practice for such a

treatment. The Examiner is reminded that the guidelines dictating a traversal of a restriction requirement are set forth in MPEP §818.03(a), which states:

“the traverse to a requirement must be complete as required by 37 CFR 1.111(b) which reads in part: "In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. . . . The applicant's or patent owner's reply must appear throughout to be a *bona fide* attempt to advance the application or the reexamination proceeding to final action. . . .”

In the present case, and as acknowledged by the Examiner, Applicants replied to the Restriction Requirement mailed April 18, 2005, on May 18, 2005. In the response to the Restriction Requirement, Applicants specifically traversed the same and argued that restriction is only proper where a search and examination of the entire application presents a serious burden upon the Examiner (MPEP §803). To support this argument, Applicants specifically noted that the claims of the present invention appear to be of an overlapping search area and, therefore, no serious burden would be presented upon the Examiner. Accordingly, Applicants *did* meet the requirements of 37 CFR 1.111 with respect to traversing the Restriction Requirement.

Nonetheless, the Examiner alleges “a mere broad allegation that the requirement is in error because the search is overlapping does not comply with the requirement of 37 CFR 1.111.” However, such an allegation finds no support in the MPEP. Specifically, in making this allegation the Examiner appears to have improperly editorialized and applied the corresponding standard appearing in MPEP §818.03(a) and (b), which states:

“A mere broad allegation that the requirement is in error does not comply with the requirement of 37 CFR § 1.111. Thus the required provisional election (see MPEP § 818.03(b)) becomes an election without traverse.”

Again, for the reasons above, Applicants have specifically pointed out the error in the Restriction Requirement. Therefore, the provisional election filed on May 18, 2005 should properly be treated as an election *with traverse*. Acknowledgment to this effect is requested.

Finally, Applicants remind the Examiner that MPEP §821.04 states:


...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim *will* be rejoined. (*emphasis added*)

Upon a finding of allowability of the elected product claims, Applicants respectfully request rejoinder of the withdrawn process claims. Additionally, Applicants reserve the right to further amend the claims to assure compliance with MPEP §821.04 and/or introduce new method claims that meet the requirements of MPEP §821.04.

Applicants submit that the present application is in condition for allowance. Early notification to this effect is respectfully requested.

Respectfully submitted,

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